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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/933,197
Filing Date: August 21, 2001
Appellant(s): ITO ET AL.

RECEIVED

OCT 18 2004

Technology Center 2600

Michael K. Mutter
Reg. No. 29,680
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 4, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

All claims are separately grouped and argued.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,953,481	Watanabe et al.	9-1999
5,579,239	Freeman et al.	11-1996
5,796,428	Matsumoto et al.	8-1998
6,601,093	Peters	7-2003

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-4, 6, 10, 12-14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (U.S. Patent 5,953,481) in view of Freeman (U.S. Patent 5,579,239).

(Claims 1, 12) Watanabe discloses a reproducing apparatus having an editing function. This apparatus includes a camera-integrated type VTR that comprises a body (10), a control part provided to the body (5), the control part being operated by a user, communication device which transmits image data (col. 10, lines 16-20), and a wireless communication device (3) that transmits operation information corresponding with operation of the control part to an external apparatus to remotely control the external apparatus (col. 9, lines 61-67; col. 10, lines 1-38) when within a predetermined distance therefrom. Watanabe does not specifically disclose the wireless communication device transmits image data.

Freeman discloses a remote video transmission system wherein image data is transmitted wirelessly from a camera-integrated device (1,2) to an external apparatus (3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made that the image data transmitted by Watanabe would be transmitted wirelessly, in the manner taught by Freeman, so communication would be made easier by being accessible in areas where standard lines are inaccessible.

(Claims 3-4, 13) Watanabe further discloses a storing device that stores identification information for specifying the external apparatus (col. 8, lines 8-12) and a specifying device (5) that specifies the external apparatus from the identification information stored in the storing device. Freeman further discloses compressing the image data, transmitting the data, and then decompressing the image data at the external apparatus (Abstract, lines 1-6). Freeman also discloses an encoding device that encodes, according to the identification information, at least one of image data and the operation information and a decoding device that decodes, according to the identification information, the encoded data received from the electronic camera (col. 6, lines 44-49; col. 7, lines 21-33). It would have been obvious to one having ordinary skill in the art at the time the invention was made to compress and decompress the image data transmitted by Watanabe, in the manner taught by Freeman, to be able to use low bandwidth lines and reduce time needed to transmit data across the lines. It

would have been further obvious to encode one of the image data and operation information, and decode the encoded data, in the manner taught by Freeman, to ensure accurate data is sent to the appropriate external device.

(Claim 6) Freeman further discloses the external unit has a display (col. 4, lines 28-31; col. 5, lines 2-3).

(Claim 10) Watanabe further discloses the control part comprises an operation key (input key group (5)).

(Claims 14, 16) Freeman further discloses difficulties encountered when transmitting data via wireless means. Some of the difficulties encountered include aligning the antennas of the transmitting and receiving apparatuses and obstructions between the transmitting and receiving antennas (col. 1, lines 47-56). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the camera and external apparatus would have to be within a predetermined distance from each other to allow the transmission of image data and information relating to the image data for storage on the external apparatus to occur without encountering the specified difficulties.

Claims 2, 5, 7, 9, 11, 15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Freeman and Matsumoto (U.S. Patent 5,796,428).

(Claim 2) Watanabe in view of Freeman discloses an image reproducing apparatus as discussed above, and Watanabe further discloses the external apparatus comprises a wireless communication device (12) that communicates

with the camera to receive accessory information. Not specifically disclosed in the inventions of Watanabe and Freeman is a processor configured to classify images received from the camera into image groups according to the accessory information and create virtual folders, each of the virtual folders comprising each of the image groups, and a displaying device which displays the virtual folders.

Matsumoto discloses an electronic photography system. Image data is captured by image capturing unit (101) and stored along with attribute data of the picture image data (col. 7, lines 53-56). The storage/display unit accepts the attribute and image data from the image-capturing unit, display controller (112) creates album data based on the image and attribute data (col. 7, lines 57-61; col. 8, lines 18-19), and displays data on the display (113). Display controller (112) classifies images received from image capturing unit (101) into groups according to attribute information and creates albums (virtual folders) that contain the image groups (col. 9, lines 53-56; see Figs. 5, 7, 8), and display device (113) displays the albums (virtual folders).

It would have been obvious to one of ordinary skill in the art at the time the invention was made that auxiliary data could be used to group images taken by the apparatus disclosed by Watanabe in view of Freeman into "albums" based on the attribute data, in the manner taught by Matsumoto, to designate which folder to put images in, to keep related pictures together in a place where they are easily accessible, and to minimize rearrangement and loss of pictures.

(Claims 5, 17) Matsumoto further discloses a taking lens (202), CCD (203) that serves as an imaging device, and CCD controller (206) that serves as a recording device that records a captured image in storage unit (104) (col. 8, lines 44-48, 56-59). All of these parts are notoriously well known camera elements.

(Claim 7, 18) Watanabe discloses a storing device and specifying device as discussed above in the rejection of Claim 3, and Freeman discloses the compressing means and encoding device as also discussed above with reference to the rejection of Claim 3.

(Claim 9, 11, 15) Matsumoto discloses a camera with a body, taking lens, imaging device, and recording device as discussed above with reference to the rejection of Claim 5, and also discloses a processor configured to classify images as discussed above with reference to the rejection of Claim 2. Matsumoto further discloses the external apparatus comprises a storage/display controller (111) that comprises an inherent memory for storing program instructions, and a display controller (112) responds to these instructions to classify received images.

Watanabe in view of Freeman disclose a camera apparatus that comprises a wireless communication device, control part controlled by a user, and operation information, and an external apparatus that comprises a wireless communication device, as discussed above with reference to the rejection of Claim 2.

(Claim 19) See rejection of Claims 14 and 16 above.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Freeman as applied to claims 1, 4, 12, or 17 above, and further in view of Peters (U.S. Patent 6,601,093).

The combined invention of Watanabe and Freeman discloses an electronic camera as discussed above, but does not specifically disclose the wireless communication device automatically initiates communication with the external device without any action by the user when the camera is within a predetermined distance of the external apparatus.

Peters discloses a networking environment that utilizes the Bluetooth™ technique, which is a technique that enables devices containing radio modems to be automatically detected upon coming into radio proximity with one or more other similarly-equipped devices (col. 6, lines 44-49). Peters gives the example of this technique being utilized between a wireless computer and server, wherein the wireless computer establishes communication with the server upon coming into proximity of the signal field of the server (col. 4, lines 41-50). Peters further states that the low-powered radio module defined by Bluetooth standard is intended to be built into various devices, including digital cameras (col. 6, lines 59-64), and that the advantages of using this technology include offering a great convenience to users in that devices can easily be added or moved without the inconvenience and expense of cables or in-premises wiring (col. 5, lines 1-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the Bluetooth technique disclosed by

Peters into the electronic camera of Watanabe and Freeman, making the camera a Bluetooth-enabled device, to offer a great convenience to users in that the camera can easily be moved without the inconvenience and expense of cables or in-premises wiring when connected to the external device, and also to reduce power consumption which would occur if the external device was left on when not in use, but rather would turn the external device on when the camera is within a predetermined distance.

Claim 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Freeman and Matsumoto as applied to claims 2, 5, and 17 above, and further in view of Peters.

See the previous rejection of claim 20 above.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Freeman and Peters.

See the rejection of claims 1 and 20 above.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe in view of Freeman, Matsumoto, and Peters.

See the rejection of claims 5 and 20 above.

(11) Response to Argument

i. Appellant argues that the Examiner is extending beyond the teachings of Watanabe in asserting that video camera 1 may be combined with remote unit 2 as set forth in Freeman, and that the teachings of Watanabe are insufficient to teach the

combination of the camera 1 and the remote unit 2 of Freeman (Page 14, lines 6-9).

The Examiner respectfully disagrees.

Watanabe discloses all the limitations of independent claim 1, except the limitation of transmitting the image data wirelessly. Freeman was relied upon to teach that is well known to transmit image data wirelessly from a remote unit to an external apparatus. Watanabe already discloses the combination of a camera (20) integrated with a device (22) for transmitting image data (Fig. 1).

ii. Appellant argues that the resultant device of a camera 1 integrated with remote unit 2, as disclosed by Freeman, would be a more sophisticated and more expensive machine that is not simply operable. The Appellant further argues that this appears to be directly contrary to the object of the invention as recited by Watanabe, namely providing for a low cost and simply operable device. Therefore, the Appellant argues that the combination of the camera 1 and the remote unit 2 of Freeman is improper (Page 14, lines 14-18).

The Examiner used Freeman to teach that it is well known to transmit image data wirelessly from a remote unit to an external apparatus, not to take the teachings of Watanabe and combine the camera 1 and the remote unit 2 of Freeman into one device.

iii. Appellant argues that one of ordinary skill in the art, seeking to solve the problem of providing a highly portable cost-effective method and apparatus for capturing and transmitting broadcast quality video from a remote location to a base location, would not consider combining the video camera and the remote unit as described in Freeman as a

portable personal computer having a 486DX-2/66 motherboard, 10-inch plasma display, 210 MB notebook hard disk drive, MS DOS Vet. 6.2 operating system, Microsoft® Windows™ Ver. 3.1, Microsoft® Video for Windows, Procom Plus® for Windows, trackball bus mouse, high speed serial ports, 1 MB Windows accelerator video card, video capture card with capture module, audio capture card, SVGA to NTSC converter, SVGA video adapter (Page 15, lines 1-10). The Examiner respectfully disagrees.

The Examiner is not suggesting combining the video camera and remote unit of Freeman in the manner set forth by the Appellant. Watanabe was applied to reject all limitations of claim 1, except for the limitation of transmitting image data wirelessly, in which Freeman was only relied upon to teach that is well known to transmit image data wirelessly from a remote unit to an external apparatus. Watanabe already discloses the combination of a camera (20) integrated with a device (22) for transmitting image data (Fig. 1).

iv. Appellant argues that the present invention as set forth in claim 1 recites, inter alia, an electronic camera comprising a wireless communication device, which transmits image data, and that while Freeman discloses the transmission of a video signal from the electronic camera to remote unit 2, there is no teaching or suggestion that the transmission is conducted wirelessly (Page 16, lines 3-7).

In response, the Examiner uses the combination of Watanabe and Freeman to teach an electronic camera comprising a wireless communication, which transmits image data, and not Freeman alone to teach this. Watanabe already teaches an electronic camera that transmits image data through video and audio signal lines to an

external apparatus (col. 3, lines 13-16). Freeman is relied upon to teach that image data could be transmitted wirelessly. Therefore using the combination of Watanabe and Freeman, the teaching of transmitting image data through signal lines as described by Watanabe would be replaced by a wireless device as taught by Freeman to transmit the image data.

v. Appellant argues that there is no motivation to use the teachings of Freeman in combination with the teachings of Watanabe to teach that the image data transmitted by Watanabe can be transmitted wirelessly as taught by Freeman (Paper 16, lines 14-19). The Examiner respectfully disagrees.

The motivation of combining the teaching of Freeman with Watanabe is that transmitting the image data wirelessly allows communication to be made easier by being accessible in areas where standard lines are inaccessible, as noted in the office action mailed on March 1, 2004 and as acknowledged by the Appellant on Page 16, lines 14-24.

vi. Appellant argues that the Examiner is suggesting that Watanabe incorporate the functionality of a Personal Computer and a cellular telephone within the recording apparatus. Appellant further argues that Watanabe appears to teach away from this combination as Watanabe seeks to provide a low cost reproducing apparatus that is simply operable for carrying out editing functions. The Examiner respectfully disagrees.

As discussed previously, the Examiner is not suggesting incorporating a Personal Computer and a cellular telephone within the recording apparatus as disclosed

by Watanabe. The Examiner is only using Freeman to teach the idea of transmitting image data wirelessly. Watanabe already transmits the operation information wirelessly, so Freeman was applied to the Watanabe reference to teach transmitting Watanabe's image data wirelessly instead of using signal lines.

vii. Appellant argues that neither Freeman nor Watanabe, either alone or in combination, teach or suggest an encoding device that encodes, according to identification information, at least one of image data and the operation information (Page 18, lines 17-23). The Examiner respectfully disagrees.

Watanabe teaches a camera that transmits image data to an external apparatus as well as encoding the operational information. Freeman teaches that image data can be transmitted using an encoding means. Furthermore, Freeman teaches that a host name may be selected from a listing of all host locations, and by choosing a host name in the default directory it accesses the transmission parameters for the host name entered and stored in a transfer file (col. 6, lines 44-49); and then when an image is captured it is associated with the external apparatus that has been chosen (col. 7, lines 21-33). Therefore, Freeman encodes the image data according to the identification information.

viii. Appellant argues that Freeman fails to teach or suggest a wireless communication device that receives image data from an electronic camera (Page 19, lines (Page 19, lines 8-10).

In response, Freeman clearly teaches wireless communication of image data that is from an electronic camera (see col. 4, lines 28-31 and col. 10, lines 41-48). Even so,

Watanabe itself teaches a communication device that receives images from an electronic camera (see Fig. 1), albeit not wirelessly. Freeman teaches a remote unit to transmit image data wirelessly to an external apparatus. Therefore, the combination of Watanabe and Freeman disclose a wireless communication device that receives image data from an electronic camera.

ix. Appellant argues that while Freeman discloses the transmission of a video signal from the electronic camera to remote unit 2, there is no teaching or suggestion that the transmission is conducted wirelessly (Page 22, lines 3-5).

In response, Freeman is not relied upon to teach that the image data is transmitted wirelessly from a camera to a remote unit. The camera-integrated type VTR (1) of Watanabe is remote from stationary type VTR (2). Watanabe teaches transmitting image data from the camera-integrated type VTR to the stationary type VTR, and Freeman teaches transmitting image data wirelessly from a remote unit to an external apparatus. Therefore, the combination of Watanabe and Freeman discloses the transmission of an image signal wirelessly from an electronic camera, the electronic camera being part of the Watanabe device.

x. Appellant argues that one of ordinary skill in the art would not seek to classify images that may be stored on a video tape recorder in the manner disclosed by Matsumoto. Appellant also argues that in making this purported modification or combination, a substantial modification in the functionality of the Watanabe reference necessarily need to be made, and, ultimately, would render the apparatus of Watanabe inoperative (Page 27, lines 6-10). The Examiner respectfully disagrees.

Image data may be stored either on a tape or in an image processor, as one skilled in the art would know. Therefore, instead of storing on a tape as taught by Watanabe, it would have been obvious to store image data in an image processor as taught by Matsumoto because the advantages of using an image processor instead of a tape recorder are obvious and well known. The substitution of an image processor for the tape recorder would not destroy the principle operation of Watanabe because the principle operation is to store the image data, which the image processor is capable of. Using an image processor only improves the Watanabe apparatus.

xi. Appellant argues that there is insufficient teaching to teach or suggest transmitting at least one of the image data and the operation information automatically when the camera is within a predetermined distance of the external apparatus (Page 41, lines 4-6). The Examiner respectfully disagrees.

Peters teaches detecting other devices that include radio modems when coming into radio proximity. Peters also teaches that communication is established (data is transmitted) with another device upon coming into proximity (col. 4, lines 47-50). Freeman teaches using a radio modem to transmit image data (col. 2, lines 26-31). Therefore, between the combination of Watanabe and Freeman and Peters it would have been obvious that the camera could transmit at least one of the image data and the operation information automatically when the camera is within a predetermined distance of the external apparatus.

xii. Appellant argues that including in the VTR of Watanabe a radio modem that is capable of receiving digital data would appear to teach away from the object of

Watanabe to provide a low cost and simply operable device (Page 41, lines 20-22).

The Examiner respectfully disagrees.

The Appellant provides no basis for the assertion that including a modem in Watanabe would prevent Watanabe from achieving a "low cost" device. Furthermore, regarding the low cost argument, the fact that a combination would be not be made by businessmen for economic reasons does not mean that a person of ordinary skill in the art would not make the combination because of some technological incompatibility (MPEP 2145 VII). See *In re Farrenkopf*, 713 F.2d 714, 219 USPQ 1 (Fed. Cir. 1983). The benefits of wireless communication are well known and have been set forth in the rejection.

xiii. Appellant argues that there is insufficient teaching to teach or suggest automatically transmitting image data wirelessly from the electronic camera to the external apparatus based upon the determination that the camera is within a predetermined distance of the electronic apparatus (Page 43, lines 14-17). The Examiner respectfully disagrees.

Peters teaches detecting other devices that include radio modems when coming into radio proximity. Peters also teaches that communication is established (data is transmitted) with another device upon coming into proximity (col. 4, lines 47-50). Freeman teaches using a radio modem to transmit image data (col. 2, lines 26-31). Therefore, in the combination of Watanabe and Freeman and Peters it would have been obvious to transmit at least one of the image data and the operation information automatically when the camera is within a predetermined distance of the external

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apparatus in order to reduce power consumption which could occur if the external device was left on when not in use, but rather would turn the external device on when the camera is within a predetermined distance.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Heather R Long
Examiner
Art Unit 2615

HRL
October 18, 2004

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